



Rep. Kelly M. Cassidy

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10100HB2040ham003

LRB101 07762 SLF 58611 a

1 AMENDMENT TO HOUSE BILL 2040

2 AMENDMENT NO. _____. Amend House Bill 2040, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 1. Short title. This Act may be cited as the
6 Private Detention Facility Moratorium Act.

7 Section 5. Legislative findings. The General Assembly
8 hereby finds and declares that the management and operation of
9 any detention facility involves functions that are inherently
10 governmental. Detention requires the exercise of coercive
11 police powers over individuals that should not be delegated to
12 the private sector and is distinguishable from privatization in
13 other areas of government. It is further found that issues of
14 liability, accountability, and cost warrant a prohibition of
15 the ownership, operation, or management of detention
16 facilities by private contractors within the State to the

1 fullest extent permitted under State law.

2 Section 10. Definitions. In this Act:

3 "Detention facility" means any building, facility, or
4 structure used to detain individuals, not including State work
5 release centers or juvenile or adult residential treatment
6 facilities.

7 Section 15. Certain agreements and incentives prohibited.

8 Neither the State, nor any unit of local government, any county
9 sheriff, or any agency, officer, employee, or agent thereof,
10 shall:

11 (1) enter into an agreement of any kind for the detention
12 of individuals in a detention facility owned, managed, or
13 operated, in whole or in part, by a private entity;

14 (2) pay, reimburse, subsidize, or defray in any way any
15 costs related to the sale, purchase, construction,
16 development, ownership, management, or operation of a
17 detention facility that is or will be owned, managed, or
18 operated, in whole or in part, by a private entity;

19 (3) receive per diem, per detainee, or any other payment
20 related to the detention of individuals in a detention facility
21 owned, managed, or operated, in whole or in part, by a private
22 entity; or

23 (4) otherwise give any financial incentive or benefit to
24 any private entity or person in connection with the sale,

1 purchase, construction, development, ownership, management, or
2 operation of a detention facility that is or will be owned,
3 managed, or operated, in whole or in part, by a private entity.

4 Section 20. Exemptions. This Act does not prohibit the
5 State, a unit of local government, or any sheriff that owns,
6 manages, or operates a detention facility from contracting with
7 a private entity or person to provide ancillary services in
8 that facility, such as, medical services, food service,
9 educational services, or facility repair and maintenance.

10 Section 25. Applicability. In case of any conflict between
11 this Act and any other law, this Act shall control.

12 Section 997. Severability. The provisions of this Act are
13 severable under Section 1.31 of the Statute on Statutes.

14 Section 999. Effective date. This Act takes effect upon
15 becoming law."